

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2018-0837; FRL-9988-95-Region 7]

**Approval of State Plans for Designated Facilities and
Pollutants; Missouri; Diammonium Phosphate Fertilizer Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to rescind the current state plan and associated regulation and accept the negative declaration submitted by the State of Missouri for Diammonium Phosphate Fertilizer units. This negative declaration submitted by the Missouri Department of Natural Resources (MoDNR) certifies that Diammonium Phosphate Fertilizer (DPF) units subject to section 111(d) of the Clean Air Act (CAA) do not operate within the jurisdiction of the State of Missouri. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2018-0837 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Larry Gonzalez, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7041 or by email at gonzalez.larry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2018-0837, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Background

The Clean Air Act (CAA) requires that state regulatory agencies implement emission guidelines and associated compliance times using a state plan developed under sections 111(d) of the CAA.

The general provisions for the submittal and approval of state plans are codified in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants.

States have options other than submitting a state plan in order to fulfill their obligations under CAA sections 111(d). If a state does not have any existing units for the relevant

emission guidelines, a letter can be submitted certifying that no such units exist within the state (*i.e.*, a negative declaration) in lieu of a state plan, in accordance with 40 CFR 60.5010. The negative declaration exempts the state from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d) plan.

On August 6, 1975, the EPA finalized standards of performance for new stationary sources from the phosphate fertilizer industry which included diammonium phosphate fertilizer production plants under the authority of section 111 of the CAA. As required by the CAA 111(d) and 40 CFR part 60, subpart B, each state must adopt and submit a plan for the control of pollutants from existing facilities regulated under section 111(b) New Source Performance Standards following publication of a notice of availability of an applicable emission control guideline unless no such facilities exist within the state. If there are no facilities in the state, the state is required to submit a letter of certifying that fact.

In response to these requirements, the State of Missouri submitted a plan for the control of fluoride emissions from phosphate fertilizer plants on January 3, 1985. The state plan was based on the state regulation 10 CSR 10-3.160 "Restriction of Emissions from Diammonium Phosphate Fertilizer Plants". At the time of the submittal there was a single operating phosphate

fertilizer plant in the State located in Joplin, Missouri. On March 14, 1986, EPA approved the state plan and associated regulation submitted by the State of Missouri pursuant to CAA section 111(d) and 40 CFR part 60, subpart B. Subsequent to this state plan approval, the single phosphate fertilizer plant operating in Joplin, Missouri ceased fertilizer production and dismantled its fertilizer production equipment in between the years of 2003 and 2004.

On December 3, 2018, MoDNR submitted a negative declaration to EPA, certifying that there are no operating phosphate fertilizer plants in Missouri, and requested that the EPA rescind its previous state plan applicable to phosphate fertilizer production facilities. Additionally, MoDNR notified the EPA that it would rescind its 10 CSR 10-3.160 rule that controlled emissions of fluoride from diammonium phosphate fertilizer plants.

The EPA is proposing to accept MoDNR's negative declaration submission made on December 3, 2018 and rescind the State's plan and associated regulation. This action applies to the state's regulatory requirements for existing facilities and not new sources.

III. What Action is the EPA Proposing to Take?

The EPA proposes to amend 40 CFR part 62 to reflect receipt of MoDNR's negative declaration letter certifying that there are no phosphate fertilizer production facilities operating in Missouri subject to 40 CFR part 60, subpart V, in accordance with section 111(d) of the CAA. Simultaneously, we are proposing to amend 40 CFR part 62, subpart AA, to remove phosphate fertilizer plants from the list of affected source categories found at 40 CFR 62.6350(c)(1).

IV. Statutory and Executive Orders

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This proposed action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve the state's negative declaration as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this proposed action does not impose an

enforceable duty upon State, local, or tribal governments, and does not reduce or eliminate the amount of authorization of Federal appropriations, and because it contains no regulatory requirements applicable to small governments, this proposed action does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this action. This action merely proposes to approve a state negative declaration submitted in response to a Federal standard, and does not alter the relationship or the distribution of power and

responsibilities established in the CAA. This rulemaking also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it proposes to approve a state submission in response to a Federal standard.

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, phosphate fertilizer plants.

Dated: December 26, 2018.

Edward H. Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 62 as set forth below:

PART 62--APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart AA - Missouri

2. Amend §62.6350 by adding paragraph (b)(7) and revising paragraph (c) to read as follows:

§62.6350 Identification of plan.

* * * * *

(b) ***

(7) A revision to Missouri's 111(d) plan for control of fluoride emissions from existing phosphate fertilizer plants was state effective on September 30, 2018 and was submitted to the EPA on December 3, 2018. Submission included a negative declaration, dated December 3, 2018, supporting state documentation, and request for the EPA to withdraw the EPA's prior plan approval for existing Diammonium Phosphate Fertilizer Units.

(c) *Designated facilities.* The plan applies to existing facilities in the following categories of sources:

(1) Primary aluminum reduction plants.

(2) Sulfuric acid production plants.

3. Section 62.6351 is revised to read as follows:

§62.6351 Identification of plan - negative declaration.

Letter from the Missouri Department of of Natural Resources, submitted December 3, 2018, certifying that there are no Diammonium Phosphate Fertilizer Units subject to 40 CFR Part 60, subpart V. *Effective date:* The effective date of the negative declaration and EPA withdrawal of the prior plan approval is **[DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].**

[FR Doc. 2019-00782 Filed: 1/31/2019 8:45 am; Publication Date: 2/1/2019]